IN THE HIGH COURT OF UTTARANCHAL AT NAINITAL.

Writ Petition No. 1270 (S/S) of 2005

Smt. Lajwanti Devi,
Wife of Sri Nand Lal,
Assistant Teacher in Primary School,
Chawki Chamasari, Block – Rajpur,
District – Dehradun. ……Petitioner.

Versus.

1. State of Uttaranchal, through Secretary, Education, Civil Secretariat, Uttaranchal, Dehradun.
2. District Education Officer, Dehradun.
3. Head Mistress, Primary School, Chwaki Chamasari, Block – Raipur, District – Dehradun.

……Respondents.

Hon'ble M.M. Ghildiyal, J.:

Heard Sri Lokendra Dobhal, learned counsel for the petitioner and learned standing counsel, who has accepted notices on behalf of respondents.

Learned counsel for both the parties are agree to decide the writ petition at its admission stage itself.

By means of this writ petition, the petitioner, who is working as Assistant Teacher, in Primary School, Chawki Chamasari, Block – Raipur, District – Dehradun, has challenged the transfer orders dated 30.06.2005 and 03.08.2005 passed by respondent no. 2 i.e. District Education Officer, Dehradun on the ground of surplus teacher.

Learned counsel for the petitioner has submitted that the petitioner has been transferred vide order dated 30.06.2005 passed by respondent no. 2 from Primary School, Chawki Chamasari, Block – Raipur, District – Dehradun to Primary School, Chitad, Block – Kalsi, District Dehradun and on

03.08.2005, respondent no. 2 has modified his earlier order dated 30.06.2005 transferred the petitioner to Primary School, Bulakiwala, Block – Vikas Nagar, District – Dehradun.

On 20.07.2005, the Government has issued an order stating therein that teachers who have completed the age of 55 years of age, they should not be transferred. In pursuance to the said Government Order dated 20.07.2005, District Education Officer has passed another order dated 03.08.2005 by which he has cancelled the transfer order of 44 Assistant Teachers, on the ground that Government has framed a policy not to transfer those teachers, who have completed the age of 55 years. However, the benefit of the said Government Order was not given to the petitioner.

Accordingly, the petitioner made a representation dated 18.08.2005 in this regard to the authorities requesting them to cancel her transfer order as she has already completed the age of 55 years and as such, her transfer is against the transfer policy. However, no action has been taken by the authorities concerned on the representation of the petitioner till date, consequently, the petitioner is compelled to file the present writ petition.

I have perused the Clause I of the aforesaid Government Order which specifically states that the transfer of any teacher who has completed more 55 years of age should be cancelled, in case, any person has already joined then in that case he/she may be shifted at nearby place of the institution where the post is vacant.

The date of birth of the petitioner as mentioned in the writ petition is 03.11.1949 and as such, it is not disputed that she has already completed 55 years of age and is entitled to get the benefit of Government Order dated 20.07.2005.

In view of the aforesaid circumstances, I direct the respondent no. 2 i.e. District Education Officer, Dehradun, to decide the petitioner's representation dated 18.08.2005 within a period of three weeks from the date of receipt of certified copy of this order. Till the decision is taken on the representation of the petitioner by the respondent no. 2, petitioner shall not be relieved, in case, she has not already been relieved. Petitioner shall submit the copy of this order along with the copy of the representation dated 18.08.2005 before respondent no. 2 within a period of ten days from today.

With this direction the writ petition is finally disposed of. No order as to costs.

(M.M. Ghildiyal, J.)

September 2, 2005
SKSharma